

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 19-110, 19-115, 19-120, and 19-125 as follows:

6 (220 ILCS 5/19-110)

7 Sec. 19-110. Certification of alternative gas suppliers.

8 (a) The provisions of this Section shall apply only to
9 alternative gas suppliers serving ~~or seeking to serve~~
10 residential or small commercial customers and only to the
11 extent such alternative gas suppliers provide services to
12 residential or small commercial customers.

13 (b) An alternative gas supplier must obtain a certificate
14 of service authority from the Commission in accordance with
15 this Section before serving any customer or other user located
16 in this State. ~~An alternative gas supplier may request, and the~~
17 ~~Commission may grant, a certificate of service authority for~~
18 ~~the entire State or for a specified geographic area of the~~
19 ~~State. A person, corporation, or other entity acting as an~~
20 ~~alternative gas supplier on the effective date of this~~
21 ~~amendatory Act of the 92nd General Assembly shall have 180 days~~
22 ~~from the effective date of this amendatory Act of the 92nd~~
23 ~~General Assembly to comply with the requirements of this~~

1 ~~Section in order to continue to operate as an alternative gas~~
2 ~~supplier.~~

3 (c) The Commission shall not grant any application for a
4 certificate of service authority, nor shall the Commission
5 approve any application, petition or other request,
6 authorizing the sale of natural gas to residential or small
7 commercial customers by an entity other than a gas utility.
8 Notwithstanding any provision of law to the contrary, no tariff
9 filed on or after February 1, 2008, shall provide for the sale
10 of natural gas to residential or small commercial customers by
11 a person or company other than a gas utility as defined in
12 Section 19-105 of this Article and in accordance with the
13 provisions of this Act governing that utility service.

14 An alternative gas supplier shall not solicit, enter into,
15 or extend any contracts with residential or small commercial
16 customers on or after the effective date of this amendatory Act
17 of the 95th General Assembly. Following the expiration of all
18 contracts that are in effect prior to the effective date of
19 this amendatory Act of the 95th General Assembly between an
20 alternative gas supplier and its residential or small
21 commercial customers, any certificate of service authority for
22 the alternative retail gas supplier shall thereafter become
23 null and void and those residential and small commercial
24 customers previously served under those contracts shall
25 thereafter purchase natural gas from their gas utility. Upon
26 the expiration of all contracts authorized under an existing

1 tariff permitting the sale of natural gas to residential or
2 small business customers by a person or company other than a
3 gas utility, the tariff shall be permanently cancelled. An
4 ~~alternative gas supplier seeking a certificate of service~~
5 ~~authority shall file with the Commission a verified application~~
6 ~~containing information showing that the applicant meets the~~
7 ~~requirements of this Section. The alternative gas supplier~~
8 ~~shall publish notice of its application in the official State~~
9 ~~newspaper within 10 days following the date of its filing. No~~
10 ~~later than 45 days after the application is properly filed with~~
11 ~~the Commission, and such notice is published, the Commission~~
12 ~~shall issue its order granting or denying the application.~~

13 (d) (Blank). ~~An application for a certificate of service~~
14 ~~authority shall identify the area or areas in which the~~
15 ~~applicant intends to offer service and the types of services it~~
16 ~~intends to offer. Applicants that seek to serve residential or~~
17 ~~small commercial customers within a geographic area that is~~
18 ~~smaller than a gas utility's service area shall submit evidence~~
19 ~~demonstrating that the designation of this smaller area does~~
20 ~~not violate Section 19-115. An applicant may state in its~~
21 ~~application for certification any limitations that will be~~
22 ~~imposed on the number of customers or maximum load to be~~
23 ~~served.~~

24 (e) The Commission shall grant the application for a
25 certificate of service authority that was filed before February
26 1, 2008, if it makes the findings set forth in this subsection

1 based on the verified application and such other information as
2 the applicant may submit.

3 (1) That the applicant possess sufficient technical,
4 financial, and managerial resources and abilities to
5 provide the service for which it seeks a certificate of
6 service authority. In determining the level of technical,
7 financial, and managerial resources and abilities which
8 the applicant must demonstrate, the Commission shall
9 consider the characteristics, including the size and
10 financial sophistication of the customers that the
11 applicant seeks to serve, and shall consider whether the
12 applicant seeks to provide gas using property, plant, and
13 equipment that it owns, controls, or operates.

14 (2) That the applicant will comply with all applicable
15 federal, State, regional, and industry rules, policies,
16 practices, and procedures for the use, operation, and
17 maintenance of the safety, integrity, and reliability of
18 the gas transmission system.

19 (3) That the applicant will comply with such
20 informational or reporting requirements as the Commission
21 may by rule establish.

22 (4) That the area to be served by the applicant and any
23 limitations it proposes on the number of customers or
24 maximum amount of load to be served meet the provisions of
25 Section 19-115, provided, that if the applicant seeks to
26 serve an area smaller than the service area of a gas

1 utility or proposes other limitations on the number of
2 customers or maximum amount of load to be served, the
3 Commission can extend the time for considering such a
4 certificate request by up to 90 days, and can schedule
5 hearings on such a request.

6 (5) That the applicant will comply with all other
7 applicable laws and rules.

8 (f) (Blank). ~~The Commission shall have the authority to~~
9 ~~promulgate rules to carry out the provisions of this Section.~~
10 ~~Within 30 days after the effective date of this amendatory Act~~
11 ~~of the 92nd General Assembly, the Commission shall adopt an~~
12 ~~emergency rule or rules applicable to the certification of~~
13 ~~those gas suppliers that seek to serve residential customers.~~
14 ~~Within 180 days of the effective date of this amendatory Act of~~
15 ~~the 92nd General Assembly, the Commission shall adopt rules~~
16 ~~that specify criteria which, if met by any such alternative gas~~
17 ~~supplier, shall constitute the demonstration of technical,~~
18 ~~financial, and managerial resources and abilities to provide~~
19 ~~service required by item (1) of subsection (c) of this Section,~~
20 ~~such as a requirement to post a bond or letter of credit, from~~
21 ~~a responsible surety or financial institution, of sufficient~~
22 ~~size for the nature and scope of the services to be provided,~~
23 ~~demonstration of adequate insurance for the scope and nature of~~
24 ~~the services to be provided, and experience in providing~~
25 ~~similar services in other jurisdictions.~~

26 (g) Notwithstanding any other rulemaking authority that

1 may exist, neither the Governor nor any agency or agency head
2 under the jurisdiction of the Governor has any authority to
3 make or promulgate rules to implement or enforce the provisions
4 of this amendatory Act of the 95th General Assembly. If,
5 however, the Governor believes that rules are necessary to
6 implement or enforce the provisions of this amendatory Act of
7 the 95th General Assembly, the Governor may suggest rules to
8 the General Assembly by filing them with the Clerk of the House
9 and the Secretary of the Senate and by requesting that the
10 General Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this amendatory Act of
17 the 95th General Assembly, "rules" is given the meaning
18 contained in Section 1-70 of the Illinois Administrative
19 Procedure Act, and "agency" and "agency head" are given the
20 meanings contained in Sections 1-20 and 1-25 of the Illinois
21 Administrative Procedure Act to the extent that such
22 definitions apply to agencies or agency heads under the
23 jurisdiction of the Governor.

24 (Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

1 Sec. 19-115. Obligations of alternative gas suppliers.

2 (a) The provisions of this Section shall apply only to
3 alternative gas suppliers serving ~~or seeking to serve~~
4 residential or small commercial customers and only to the
5 extent such alternative gas suppliers provide services to
6 residential or small commercial customers.

7 (b) An alternative gas supplier shall:

8 (1) comply with the requirements imposed on public
9 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
10 8-507 of this Act, to the extent that these Sections have
11 application to the services being offered by the
12 alternative gas supplier; and

13 (2) continue to comply with the requirements for
14 certification stated in Section 19-110.

15 (c) An alternative gas supplier shall have in its
16 possession an authorization obtained prior to the switch that
17 verifies a customer's decision to switch to ~~obtain verifiable~~
18 ~~authorization from a customer, in a form or manner approved by~~
19 ~~the Commission, before the customer is switched from another~~
20 ~~supplier. The authorization shall be obtained prior to the~~
21 switch and shall be in a form or manner approved by the
22 Commission.

23 (d) No alternative gas supplier shall:

24 (1) enter into or employ any arrangements which have
25 the effect of preventing any customer from having access to
26 the services of the gas utility in whose service area the

1 customer is located; ~~or~~

2 (2) charge customers for such access;

3 (3) on or after the effective date of this amendatory
4 Act of the 95th General Assembly, extend, solicit, or enter
5 into any contracts with residential or small commercial
6 customers; or

7 (4) collect or impose an early termination fee.

8 (e) An alternative gas supplier that is certified to serve
9 residential or small commercial customers shall not:

10 (1) deny service to a customer or group of customers
11 nor establish any differences as to prices, terms,
12 conditions, services, products, facilities, or in any
13 other respect, whereby such denial or differences are based
14 upon race, gender, or income; or

15 (2) deny service based on locality, nor establish any
16 unreasonable difference as to prices, terms, conditions,
17 services, products, or facilities as between localities.

18 (f) An alternative gas supplier shall comply with the
19 following requirements with respect to the marketing,
20 offering, and provision of products or services:

21 (1) Any marketing materials which make statements
22 concerning prices, terms, and conditions of service shall
23 contain information that adequately discloses the prices,
24 terms and conditions of the products or services.

25 (2) The alternative gas supplier shall be prohibited
26 from switching ~~Before any customer is switched~~ from another

1 supplier, beginning on the effective date of this
2 amendatory Act of the 95th General Assembly, ~~the~~
3 ~~alternative gas supplier shall give the customer written~~
4 ~~information that adequately discloses, in plain language,~~
5 ~~the prices, terms, and conditions of the products and~~
6 ~~services being offered and sold to the customer.~~

7 (3) The alternative gas supplier shall continue to
8 provide to the customer:

9 (A) accurate, timely, and itemized billing
10 statements that describe the products and services
11 provided to the customer and their prices and that
12 specify the gas consumption amount and any service
13 charges and taxes; ~~provided that this item (f) (3) (A)~~
14 ~~does not apply to small commercial customers;~~

15 (B) an additional statement, at least annually,
16 that adequately discloses the average monthly prices,
17 and the terms and conditions, of the products and
18 services sold to the customer; ~~provided that this item~~
19 ~~(f) (3) (B) does not apply to small commercial~~
20 ~~customers;~~

21 (C) refunds of any deposits with interest within 30
22 days after the date that the customer changes gas
23 suppliers or discontinues service if the customer has
24 satisfied all of his or her outstanding financial
25 obligations for alternative gas service, excluding
26 termination fees, to the alternative gas supplier at an

1 interest rate set by the Commission which shall be the
2 same as that required of gas utilities; and

3 (D) refunds, in a timely fashion, of all undisputed
4 overpayments upon the oral or written request of the
5 customer.

6 (g) All contracts that existed prior to the effective date
7 of this amendatory Act of the 95th General Assembly between an
8 alternative gas supplier and a residential or small commercial
9 customer shall automatically terminate on January 1, 2010. An
10 ~~alternative gas supplier may limit the overall size or~~
11 ~~availability of a service offering by specifying one or more of~~
12 ~~the following:~~

13 ~~(1) a maximum number of customers and maximum amount of~~
14 ~~gas load to be served;~~

15 ~~(2) time period during which the offering will be~~
16 ~~available; or~~

17 ~~(3) other comparable limitation, but not including the~~
18 ~~geographic locations of customers within the area which the~~
19 ~~alternative gas supplier is certificated to serve.~~

20 ~~The alternative gas supplier shall file the terms and~~
21 ~~conditions of such service offering including the applicable~~
22 ~~limitations with the Commission prior to making the service~~
23 ~~offering available to customers.~~

24 (h) (Blank). ~~Nothing in this Section shall be construed as~~
25 ~~preventing an alternative gas supplier that is an affiliate of,~~
26 ~~or which contracts with, (i) an industry or trade organization~~

1 ~~or association, (ii) a membership organization or association~~
2 ~~that exists for a purpose other than the purchase of gas, or~~
3 ~~(iii) another organization that meets criteria established in a~~
4 ~~rule adopted by the Commission from offering through the~~
5 ~~organization or association services at prices, terms and~~
6 ~~conditions that are available solely to the members of the~~
7 ~~organization or association.~~

8 (i) Notwithstanding any other rulemaking authority that
9 may exist, neither the Governor nor any agency or agency head
10 under the jurisdiction of the Governor has any authority to
11 make or promulgate rules to implement or enforce the provisions
12 of this amendatory Act of the 95th General Assembly. If,
13 however, the Governor believes that rules are necessary to
14 implement or enforce the provisions of this amendatory Act of
15 the 95th General Assembly, the Governor may suggest rules to
16 the General Assembly by filing them with the Clerk of the House
17 and the Secretary of the Senate and by requesting that the
18 General Assembly authorize such rulemaking by law, enact those
19 suggested rules into law, or take any other appropriate action
20 in the General Assembly's discretion. Nothing contained in this
21 amendatory Act of the 95th General Assembly shall be
22 interpreted to grant rulemaking authority under any other
23 Illinois statute where such authority is not otherwise
24 explicitly given. For the purposes of this amendatory Act of
25 the 95th General Assembly, "rules" is given the meaning
26 contained in Section 1-70 of the Illinois Administrative

1 Procedure Act, and "agency" and "agency head" are given the
2 meanings contained in Sections 1-20 and 1-25 of the Illinois
3 Administrative Procedure Act to the extent that such
4 definitions apply to agencies or agency heads under the
5 jurisdiction of the Governor.

6 (Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

7 (220 ILCS 5/19-120)

8 Sec. 19-120. Commission oversight of services provided by
9 gas suppliers.

10 (a) The provisions of this Section shall apply only to
11 alternative gas suppliers serving ~~or seeking to serve~~
12 residential or small commercial customers and only to the
13 extent such alternative gas suppliers provide services to
14 residential or small commercial customers.

15 (b) The Commission shall have jurisdiction in accordance
16 with the provisions of Article X of this Act to entertain and
17 dispose of any complaint against any alternative gas supplier
18 alleging that:

19 (1) the alternative gas supplier has violated or is in
20 nonconformance with any applicable provisions of Section
21 19-110 or Section 19-115;

22 (2) an alternative gas supplier has failed to provide
23 service in accordance with the terms of its contract or
24 contracts with a customer or customers;

25 (3) the alternative gas supplier has violated or is in

1 nonconformance with the transportation services tariff of,
2 or any of its agreements relating to transportation
3 services with, the gas utility or municipal system
4 providing transportation services; or

5 (4) the alternative gas supplier has violated or failed
6 to comply with the requirements of Sections 8-201 through
7 8-207, 8-301, 8-505, or 8-507 of this Act as made
8 applicable to alternative gas suppliers.

9 (c) The Commission shall have authority after notice and
10 hearing held on complaint or on the Commission's own motion to:

11 (1) order an alternative gas supplier to cease and
12 desist, or correct, any violation of or nonconformance with
13 the provisions of Section 19-110 or 19-115;

14 (2) impose financial penalties for violations of or
15 nonconformances with the provisions of Section 19-110 or
16 19-115, not to exceed (i) \$10,000 per occurrence or (ii)
17 \$30,000 per day for those violations or nonconformances
18 which continue after the Commission issues a
19 cease-and-desist order; and

20 (3) alter, modify, revoke, or suspend the certificate
21 of service authority of an alternative gas supplier for
22 substantial or repeated violations of or nonconformances
23 with the provisions of Section 19-110 or 19-115.

24 For purposes of this subsection (c), each violation of
25 Section 19-110 or 19-115 is a separate and distinct offense for
26 each residential or small commercial customer that an

1 alternative gas supplier supplies with gas. In the case of a
2 continuing violation, each day's continuance thereof shall be a
3 separate and distinct offense for each customer.

4 In construing and enforcing the provisions of this Act
5 relating to penalties, the act, omission, or failure of any
6 officer, agent, or employee of an alternative gas supplier that
7 is acting within the scope of his official duties or
8 employment, shall in every case be deemed to be the act,
9 omission, or failure of such alternative gas supplier.

10 (d) Nothing in this Act shall be construed to limit,
11 restrict, or mitigate in any way the power and authority of the
12 State's Attorneys or the Attorney General under the Consumer
13 Fraud and Deceptive Business Practices Act.

14 (e) Notwithstanding any other rulemaking authority that
15 may exist, neither the Governor nor any agency or agency head
16 under the jurisdiction of the Governor has any authority to
17 make or promulgate rules to implement or enforce the provisions
18 of this amendatory Act of the 95th General Assembly. If,
19 however, the Governor believes that rules are necessary to
20 implement or enforce the provisions of this amendatory Act of
21 the 95th General Assembly, the Governor may suggest rules to
22 the General Assembly by filing them with the Clerk of the House
23 and the Secretary of the Senate and by requesting that the
24 General Assembly authorize such rulemaking by law, enact those
25 suggested rules into law, or take any other appropriate action
26 in the General Assembly's discretion. Nothing contained in this

1 amendatory Act of the 95th General Assembly shall be
2 interpreted to grant rulemaking authority under any other
3 Illinois statute where such authority is not otherwise
4 explicitly given. For the purposes of this amendatory Act of
5 the 95th General Assembly, "rules" is given the meaning
6 contained in Section 1-70 of the Illinois Administrative
7 Procedure Act, and "agency" and "agency head" are given the
8 meanings contained in Sections 1-20 and 1-25 of the Illinois
9 Administrative Procedure Act to the extent that such
10 definitions apply to agencies or agency heads under the
11 jurisdiction of the Governor.

12 (Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

13 (220 ILCS 5/19-125)

14 Sec. 19-125. Consumer education.

15 (a) The Commission shall make available upon request and at
16 no charge, and shall make available to the public on the
17 Internet through the State of Illinois World Wide Web site:

18 (1) a list of all certified alternative gas suppliers
19 serving residential and small commercial customers within
20 the service area of each gas utility including, in the case
21 of the Internet, computer links to available web sites of
22 the certified alternative gas suppliers;

23 (2) a list of all certified alternative gas suppliers
24 serving residential or small commercial customers that
25 have been found in the last 3 years by the Commission

1 pursuant to Section 10-108 to have failed to provide
2 service in accordance with this Act;

3 (3) guidelines to assist customers in determining
4 which gas supplier is most appropriate for each customer;
5 ~~and~~

6 (4) Internet links to providers of information that
7 ~~enable enables~~ customers to compare prices and services of
8 gas utilities and alternative gas suppliers, if and when
9 that information is available; ~~and-~~

10 (5) details regarding the implementation of subsection
11 (c) of Section 19-110 of this Article and item (3) of
12 subsection (d) and item (2) of subsection (f) of Section
13 19-115 of this Article.

14 (b) In any service area where customers are able to choose
15 their natural gas supplier, the Commission shall require gas
16 utilities and alternative gas suppliers to inform customers of
17 how they may contact the Commission in order to obtain
18 information about the customer choice program.

19 (c) Notwithstanding any other rulemaking authority that
20 may exist, neither the Governor nor any agency or agency head
21 under the jurisdiction of the Governor has any authority to
22 make or promulgate rules to implement or enforce the provisions
23 of this amendatory Act of the 95th General Assembly. If,
24 however, the Governor believes that rules are necessary to
25 implement or enforce the provisions of this amendatory Act of
26 the 95th General Assembly, the Governor may suggest rules to

1 the General Assembly by filing them with the Clerk of the House
2 and the Secretary of the Senate and by requesting that the
3 General Assembly authorize such rulemaking by law, enact those
4 suggested rules into law, or take any other appropriate action
5 in the General Assembly's discretion. Nothing contained in this
6 amendatory Act of the 95th General Assembly shall be
7 interpreted to grant rulemaking authority under any other
8 Illinois statute where such authority is not otherwise
9 explicitly given. For the purposes of this amendatory Act of
10 the 95th General Assembly, "rules" is given the meaning
11 contained in Section 1-70 of the Illinois Administrative
12 Procedure Act, and "agency" and "agency head" are given the
13 meanings contained in Sections 1-20 and 1-25 of the Illinois
14 Administrative Procedure Act to the extent that such
15 definitions apply to agencies or agency heads under the
16 jurisdiction of the Governor.

17 (Source: P.A. 92-852, eff. 8-26-02.)

18 Section 97. Severability. If any provision of this Act or
19 its application to any person or circumstance is held invalid,
20 the invalidity of that provision or application does not affect
21 other provisions or applications of this Act that can be given
22 effect without the invalid provision or application.

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.